

**MINUTES  
CHARLESTOWN PLANNING BOARD  
JUNE 3, 2014**

Members Present: Robert Frizzell (Chair); Sharon Francis (Vice-Chair), Steve Neill (Ex-Officio), Richard Lincourt, Pat Royce, Rose Smith-Hull, Roger Thibodeau

Alternates Present: John Bruno

Staff Present: David Edkins – Planning & Zoning Administrator  
Regina Borden – Recording Secretary

**CALL TO ORDER & SEATING OF ALTERNATES** - Mr. Frizzell called this meeting to order at 7:00 PM. He noted that the full Board was present therefore there was no need to call upon the alternate member. Mr. Frizzell advised that meetings are tape recorded therefore asked anyone wishing to speak to identify themselves for the record.

**APPROVAL OF MINUTES OF MAY 20, 2014:**

**Mrs. Royce moved to approve the Minutes of the May 20, 2014, with the following correction: Under CAROD Properties – Hair Salon & Wellness Center - “Alicia Flagg” should be corrected to “Alicia Flaig”. Mr. Lincourt noted that on page 2, second paragraph, line 16, “those out” should be changed to “out those”. Mrs. Francis seconded the motion. With six members in favor, the minutes were approved as corrected. Mr. Thibodeau abstained as he was not present at this meeting.**

**GRANITE STATE LAWN CARE / PHILIP FRANK METHOT, cont’d. – Retail Sales of Bark Mulch, Loam, Stone, Wood Chips, Firewood – 3607 Claremont Road – Map 205, Lot 64 – Zone E (Mixed Use):** At the last meeting Mr. Campbell was asked to present a drawing of where he parks his equipment on Route 12 at Frank’s Bargain Center. It is not the whole field but a small space directly behind Frank’s Bargain Center. He explained where the space is on his plan. The sales area is in front. Mrs. Francis asked if the parking spaces are 20’ x 30’. Mr. Campbell responded “yes” nothing is designated with painted lines as it is an open gravel area. Mrs. Francis asked if he was going to use all the spaces. Mr. Campbell said “yes” that is where he stores his equipment. Mr. Frizzell noted that the equipment is stored there when it is not on the job site. Mr. Lincourt said at the last meeting Mr. Neill mentioned there were 5-gallon pails in the back. Mr. Campbell explained that is all that is there; he is not storing pesticides or hazardous materials. There were no abutters present.

Mrs. Francis felt that someone looking at the drawing five years from now would have a difficult time understanding the plan. Mr. Lincourt felt there should be an arrow indicating “north”. Mr. Thibodeau thinks they need a site plan showing both the front and back. Mr. Edkins asked if it would be enough if he labeled it Area #1 and Area #2 on the tax map. Mr. Thibodeau said it does not need to be a big plan but this is not proper; it says in the regulations it needs to be to scale and all inclusive. Mrs. Smith-Hull has a problem with storing stuff in the back of the

building. Mr. Frizzell explained that most people need a place to put things. Mrs. Francis said it is having a plan that shows what is happening and where. Mr. Edkins pointed out that the minor Site Plan application does not specifically use the word “to scale”. Mr. Edkins did not see the plan Mr. Campbell submitted before this meeting. Mrs. Francis questioned the size of the area Mr. Campbell is leasing. Mr. Campbell felt it is about one-quarter of an acre but no footage is mentioned in the lease. Responding to another question from Mrs. Francis, Mr. Campbell said there is an area of the property that is in Current Use for agricultural use. The area he uses is not in Current Use. Mrs. Francis felt it would be useful to know where those boundaries are. Mrs. Royce stated that right now she is confused; it is not complete enough to make a decision. Mr. Thibodeau said the plan should show property lines; they do not know how many feet it is away from the property line. Mr. Campbell said the property goes back to the railroad tracks; he does not go back that far.

Mrs. Francis felt they could summarize what they are looking for. Mr. Edkins suggested if Mr. Campbell could meet with him they will figure out a way to put it all down on one piece of paper and get it to the PB in advance of the next meeting. A part of this confusion is that the PB is seeing the plan for the first time. Mr. Thibodeau recommended that the tax map be blown up; the parking spaces should be to scale. Mr. Edkins can do 11” x 17” in-house. Mrs. Francis said it would be helpful to separate out customer parking in front of the building and the equipment in the back. Mr. Campbell explained that there is no water source so he does not do any washing or repairs to the equipment. Usually customers stop for about five minutes just to load up.

**Mrs. Royce moved to table this application for Granite State Lawn Care until the next meeting on June 17<sup>th</sup>, 2014. Mrs. Smith-Hull seconded the motion. With seven members in favor, the motion was approved.**

**SIGN PERMIT – Granite State Lawn Care:** Mr. Campbell was not going to put a sign on Route 12. He was going to put a sign in the front of the building where the mulch piles are. It would be on concrete blocks, 2’ x 3’ and the size of the letters would be 3” x 3-1/2”. It is not meant to be seen from the road. Mr. Frizzell pointed out that the new plan will show the location of the sign. The permit will be taken up at the next meeting. Mr. Thibodeau felt the drawing should be big enough to show everything; 24” x 36” would be the way to go. Mr. Edkins said the standard size is 22” x 34”; the Registry of Deeds will not take anything larger.

**CAROD PROPERTIES, cont’d. – Hair Salon & Wellness Center – 122 Main Street – Map 118, Lot 91 – Zone B (Business):** Mrs. Clark advised that the PB requested that the parking spaces be delineated; she measured and submitted the plan. Mr. Edkins explained that these parking spaces are 9’ x 18’ and the handicapped space is 9’ plus 4-1/2’ on the upper level. The entrance will be on the north side of the building. Ms. Flaig wants to put a ramp by the handicapped space. Mrs. Francis felt the plan looks good. Mr. Neill asked if they are re-opening an entrance through the parking area back to River Street; it looks like traffic is developing next to the building. Mrs. Clark said once the Jiffy Mart has finished with their entrance and exit that should be their only exit onto River Street. Right now they are using the space to park but it is not a part of this plan. Mrs. Clark said their access on the north side of their building leads into the road on the back just as it was. The ground was finally soft enough for them to put up their new sign but then Ms. Flaig asked about a sign. Mrs. Clark thought they could add something

onto her sign. Ms. Flaig went to a sign maker and she might want to put something on the side of the building. Mrs. Clark felt they could change the sign on the north side to read “Entrance Only” with an arrow; that should help. Mr. Edkins pointed out that the Town re-zoned the Sumner House property so now they are only allowed 25 square feet of signage on the property but he is starting to think about some of the properties in the Business Zone that have multiple uses or multiple businesses in them; maybe the PB should re-think the maximum 25 square feet. It is too restrictive. Mrs. Clark has approval for her existing signs but to add additional signage might require a Variance from the Zoning Board of Adjustment (ZBA). Mr. Edkins feels the ZBA would be open to a reasonable adjustment where there is more than one business on the same property. Mrs. Clark will talk to Ms. Flaig and have her request a Variance for the signs. No abutters were present.

**Mr. Lincourt moved to accept this application from CAROD Properties as complete for a Hair Salon & Wellness Center. Mrs. Smith-Hull seconded the motion. With seven members in favor, the motion was approved.**

**Mrs. Francis moved to grant final approval for this application from CAROD Properties for a Hair Salon & Wellness Center. Mr. Lincourt seconded the motion. With seven members in favor, the motion was approved.**

**NEW BUSINESS:**

**MICHAEL DEACON:** Mr. Michael Deacon talked to Mr. Edkins a few months ago about what was required for him to start a nursery business. He is open to the public about two months out of the year – May and June. There are no permanent buildings associated with the business; his green houses are collapsible and come down when the plants are gone. The property is close to the intersection of Fling Road and Old Gristmill Road. He had Mr. Weed come out to look over the driveway access and parking and he said everything was fine. He could provide a drawing for the parking spaces. There will not be any lighting as he is only open during daytime hours. Mr. Edkins explained that this is kind of a gray area when they are talking about an agricultural type of operation. He was not sure if it required Site Plan approval. Mr. Edkins told Mr. Deacon to go ahead and proceed with the business but several people have questioned if this is a business that requires Site Plan Review approval or not so he asked Mr. Deacon to come before the PB to talk about it. Mr. Bruno asked if he just sells things that he raises on the property. Mr. Deacon responded “yes”. Mr. Bruno felt it is agricultural. Mr. Frizzell asked where the parking will be. Mr. Deacon said to the west end of the old foundation on Old Gristmill Road there is a low spot where he cleared the brush and will bring in gravel for a parking area. He averages six or seven customers a day. Mrs. Smith-Hull has been there twice and had no problem pulling in-or-out. Mrs. Francis asked if he is selling wholesale. Mr. Deacon said “no”; it is retail only. Mr. Deacon is waiting for an inspector from the State to check the wetlands but it is only wetlands because the Town re-directed water off Acworth Road under Claremont Road, then back underneath Fling Road and dumps it on the property. It dries up in June. Mrs. Francis suggested that there be a Site Plan because this is the sort of thing that is more than agricultural. Mr. Edkins pointed out that there is no definition for “Agriculture”; the only place where they address agricultural is in the Sign regulations. Mr. Deacon has a very small sign that says “Mountain Point Nursery”. Mr. Deacon explained there are two parcels and he does not use the parcel with the wetland area. Mr. Edkins noted that there is now the “NH

Method for Identifying Wetlands” as opposed to the old Army Corp of Engineers method; it is fairly new. Mr. Thibodeau asked how big the property is. Mr. Deacon said each parcel is two acres. There was a consensus of the PB members to have Mr. Deacon submit a Site Plan Review application before the next season starts. He will include where the seasonal greenhouses will be and the parking area.

**PLANNING & POLICY ISSUES:**

**ENFORCEMENT – Keady Family Practice:** Mr. Edkins had included a copy of his letter to the Keady Family Practice in the PB packets regarding several issues that came to his attention regarding their tenancy at 157 Main Street. He distributed their response. When they moved into that building they came in to get a Sign Permit approval but the PB determined that the property was going from a professional office to another professional office so they did not need Site Plan Review approval. The PB approved the signs. There have been enough subtle changes on the property that the neighbors to the rear have some concerns about the effect it is having on them. The big issue was the lighting that was installed in the back of the building that shines unwanted light onto his property and into his home. Mr. Edkins feels this can be worked out if they can all get together and agree on a lighting adjustment. The other concern was a misunderstanding about who owns the driveway. The property owners in the back thought they owned the driveway but that is not the case; it is a right-of-way over the front parcel. This was just to keep the PB informed.

**CONDITIONS OF APPROVAL:** Mrs. Francis, Mr. Bruno and Mr. Lincourt had attended a NH Municipal Law Lecture on “Conditions of Approval” back in October 2013. Mr. Edkins included in the PB packets attachments that were provided by Mr. Lincourt and Mrs. Francis. Mrs. Francis reported that the workshop was very interesting and the attorneys who gave the presentation on behalf of the NH Municipal Association are on the other end of being in court where PB decisions are being challenged, often on procedural issues. They felt they should bring the information back to the other PB members.

Mr. Bruno reported that they are aware of the two types of conditions. There is the condition that has to be met before they actually issue the permit which is what happened with the Day Care Center at the last meeting. There are conditions that require plan changes and other issues that should be done before the permit is issued. There are subsequent conditions where the Jiffy Mart and Dollar General had to do a noise study at the property line and a lighting study along the property line to meet the requirements. They should be met before a Certificate of Occupancy (CO) is issued. Mr. Edkins noted that the Town does not issue a Certificate of Occupancy unless requested by the applicant. Mr. Bruno said they need to keep track of the conditions before issuing the permit. He came away from the meeting realizing how careful they need to be about what they include in the approval. Unless it is stated in the approval they do not have legal grounds on it. It all needs to be included in the permit approval. Mr. Edkins pointed out that in the Notices of Decision he specifically states that the approval is based on the plans, specifications and representations of the applicant before the PB so that brings the Minutes into it. In the next packet Mr. Edkins will include copies of the actual Notices of Decision that have gone out on the Jiffy Mart and Dollar General. Mr. Bruno felt the Minutes are some of the best he has read and the secretary needs to be commended. On the bigger projects he feels it is worth taking another two weeks to get the draft permit done and distribute it for a final review of those

conditions so they can be adjusted before the final vote is taken. It does not need to be done for the smaller projects. Mr. Edkins has the booklet from the lecture they attended; it has some legal precedent behind it. They will eventually publish it and when or if it is he will purchase them if the PB members would like to have one. Mr. Bruno mentioned that at some hearings they close the Public Hearing and then the Board deliberates. He is not sure they need to do that. Mr. Edkins said technically that is the way it is supposed to be done but in a lot of cases it makes the meeting more inclusive if people can continue to participate throughout the process. There is no legal requirement.

Mrs. Francis stated that they also talked about after the decision is made they do not get an opportunity to review it until after the Minutes come out. Therefore the PB would like Mr. Edkins to include copies of the Notices of Decision letters in the following meeting packet. Mr. Edkins stated that one of the things they require when they send out the Notices of Decision is that the applicant has to sign off on it and send a copy back saying “yes” they agree to the conditions; that remains on record in the file. Mr. Frizzell does not sign the plans until all the conditions are met.

Mr. Edkins explained that Mr. Lincourt’s thoughts are some that have come up frequently.

No. 1: What is the effect of a failed motion? Mr. Edkins said his experience has always been that the PB has to pass a positive motion; if they defeat a motion to approve an application that does not mean that the application is denied. If they are going to deny something they need to specify grounds on which they are denying it but when the PB defeats a motion nothing has happened. They have to put forth a motion to either approve or deny and that motion has to pass otherwise they have not taken any action. Mr. Frizzell felt they have not taken any action but have proved a point. Mr. Bruno asked how that affects the clock. Mr. Edkins said it does not affect the clock. Mr. Lincourt noted that the procedures do not explain that but the members should keep that in mind. Mr. Edkins said it is in the Robert’s Rules of Order. He would not let the PB defeat a motion for approval and call it a denial. A discussion and examples followed.

Nos. 2, 3 and 4: How many votes do they need to pass a motion; is it a majority of the people present or a NH Court says a majority of the votes cast. Therefore if there is an abstention there could be a conflict. Mr. Edkins believes it is always a positive vote of the members present and voting. An abstention is a “no” vote under current voting procedure but that is not the case. The effect of an abstention is that they ascent to the will of the majority; they are willing to go along with what everybody else thinks. He has had some legal opinions on this in the past from the Town attorney. A tie vote does not do anything. There was discussion relative to declaring an abstention prior to the vote. Mr. Edkins felt that should be changed on page 3 of the Board’s Rules of Procedure. Mr. Lincourt questioned how votes should be recorded. Mr. Edkins explained it should be PB members present and voting; an abstention is not a vote. If there is a split vote it can be noted in the minutes how each member voted. The rules are different for the ZBA; it is specific in the State Statutes. Mr. Lincourt will draft some procedures and get them to the PB members prior to the next meeting.

Mr. Lincourt mentioned that the next two pages of his handout deal with “should” or “shall”, “Landscaping” and “Coordination of Roadway, Streets, Parking, Loading, Recreation and

Safety”. He asked the PB members to look at this but it does not need to be discussed at this meeting. Mr. Edkins likes “should” in certain places especially when they get subjective in terms of landscaping, etc. because that gives the PB some flexibility without having to grant Waivers. Mr. Bruno felt the conditions should always say “shall”.

**ADMINISTRATION & CORRESPONDENCE:**

**Enforcement:** Mrs. Francis wanted to move onto enforcement. Mr. Edkins said enforcement is not a budgeting issue but rather a staff time issue. Ms. Chaffee has stepped up and is moving forward with these enforcement issues; they are getting closer. Mr. Neill, Selectboard and Health Officer, said they are making head-way. Mrs. Francis asked if there is an on-going list. Mr. Neill explained that they have a flow chart. Mr. Edkins frequently gets emails advertising enforcement software but it is expensive. They are starting to integrate the PB and ZBA enforcement with the Building Code enforcement. There was discussion relative to several on-going enforcement issues. Some property owners correct the issue but then fall out of compliance again. We are making slow progress. Both gentlemen that came into this meeting are the result of enforcement letters that were sent out to them. Mrs. Francis feels there needs to be a way to handle enforcement problems in a fair and reasonable manner so everybody is treated equally and given a time frame to comply. Mr. Edkins and Ms. Chaffee are working to minimize the cost in that they can do a lot of land use enforcement through the District Court in Claremont where they can go in there themselves rather than going to Superior Court where they need to have a lawyer.

**ADJOURNMENT:**

**There being no other business, Mrs. Smith-Hull moved to adjourn this meeting. Mrs. Royce seconded the motion. With seven members in favor, the meeting was adjourned at 8:56 PM.**

Respectfully submitted,  
Regina Borden, Recording Secretary

Minutes Filed: 6-12-14

(**Note:** These are unapproved Minutes. Corrections, if necessary, will be found in the Minutes of the June 17, 2014, Planning Board meeting.)